

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

TONY VOGT

*Plaintiff,*

v.

GREAT LAKES INSURANCE SE D/B/A  
GREAT LAKES REINSURANCE (UK)  
PLC

*Defendants.*

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CASE NO. 5:17-cv-960

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Defendant GREAT LAKES INSURANCE SE (formerly known as Great Lakes Reinsurance (UK) PLC), in a cause styled *Tony Vogt v. Great Lakes Insurance SE d/b/a Great Lakes Reinsurance (UK) PLC*, originally pending as Cause No. 2017CI14304 in the 285<sup>th</sup> Judicial District Court of Bexar County, Texas, hereby respectfully files this Notice of Removal of that cause to the United States District Court for the Western District of Texas, San Antonio Division, while fully reserving all rights and defenses, and as grounds therefore would respectfully show the Court as follows:

**I. NATURE OF THE PENDING STATE CASE**

1. On or about August 4, 2017, Plaintiff *Tony Vogt* ("Plaintiff") filed a civil action styled *Tony Vogt v. Great Lakes Insurance SE d/b/a Great Lakes Reinsurance (UK) PLC*, under Cause No. 2017CI14304 in the 285<sup>th</sup> Judicial District Court of Bexar County, Texas.

2. That matter is an insurance dispute wherein Plaintiff alleges in his Original Petition that his property, located at 116 Pamela Drive, San Antonio, Texas 78223, and insured

under an insurance policy issued by Defendant, sustained damage during a wind and hailstorm occurring on or about April 12, 2016. Plaintiff further alleges causes of action for breach of contract, violations of the Texas Insurance Code, and breach of the duty of good faith and fair dealing.

3. Defendant has attached the documents required to be filed with this Notice of Removal.<sup>1</sup>

## **II. JURISDICTION**

4. Pursuant to 28 U.S.C. § 1441(a), Defendant removes this action to the District Court of the United States for the Western District of Texas, San Antonio Division, because it is the District and Division embracing the place where such action is pending. In support thereof, Defendant would show that this action is between citizens of different states, and the amount in controversy exceeds \$75,000.00.

### **A. Diversity of the Parties**

5. Plaintiff's Original Petition confirms that he is a citizen of Texas.<sup>2</sup>

6. Plaintiff's Original Petition confirms that Defendant is not a citizen of Texas.<sup>3</sup> Additionally, Defendant is a Societas Europea incorporated in Germany and registered with the commercial register of the local court of Munich under number HRB 230278. Defendant's registered office is at Königinstraße 107, 80802 Munich, Germany.

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<sup>1</sup> Plaintiff's Original Petition, attached hereto as Exhibit "A;" Proof of Service, attached hereto as Exhibit "B;" An Index of Matters Being Filed, attached hereto as Exhibit "C;" Copy of State Court Docket Sheet, attached hereto as Exhibit "C-1;" Copy of Process, attached hereto as Exhibit "C-2;" List of All Counsel of Record, attached hereto as Exhibit "C-3;" and Civil Cover Sheet, attached hereto as Exhibit "C-4."

<sup>2</sup> Exhibit A., at paras. 2-3.

<sup>3</sup> *Id.*, at p. 2.

**B. Amount in Controversy**

7. As demonstrated herein by a preponderance of the evidence, it is apparent from Plaintiff's pleadings that the amount in controversy in this matter exceeds the jurisdictional minimum of \$75,000.00, exclusive of interest and costs. Plaintiff specifically pleads for monetary relief over \$100,000.00.<sup>4</sup>

8. Therefore, because Plaintiff and Defendant are citizens of different states, and because Plaintiff seeks to recover an amount exceeding \$75,000 exclusive of interest and costs, removal is proper under 28 U.S.C. § 1332(a).

**III. TIMING OF REMOVAL**

9. Defendant has not yet been served with this lawsuit, therefore, this Notice of Removal is being filed within 30 days of service of the petition upon the Commissioner of Insurance of the Texas Department of Insurance pursuant to 28 U.S.C. § 1446(b), and is filed less than one year after commencement of the action, pursuant to 28 U.S.C. § 1446(c).

10. This Notice is therefore timely filed.

**IV. NOTICE TO ADVERSE PARTIES AND STATE COURT**

11. As the removing parties, Defendant will give Plaintiff prompt written notice of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

12. Defendant will also file a copy of this Notice of Removal with the 285<sup>th</sup> Judicial District Court of Bexar County, Texas, where the state court action is currently pending, as required by 28 U.S.C. § 1446(d).

**V. ANSWER**

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<sup>4</sup> See Exhibit "A," para. 4.

13. Defendant has not filed any responsive pleadings in the state court action, except the Notice of Removal as required by the Federal Rules of Civil Procedure. Defendant will file an Answer to Plaintiff's lawsuit in this Honorable Court.

#### **VI. JURY DEMAND**

14. Defendant hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

#### **VII. CONCLUSION AND PRAYER**

15. In light of the foregoing, Defendant respectfully removes this civil action styled *Tony Vogt v. Great Lakes Insurance SE d/b/a Great Lakes Reinsurance (UK) PLC*, originally pending as Cause No. 2017CI14304 in the 285<sup>th</sup> Judicial District Court of Bexar County, Texas.

16. Defendant prays for such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Respectfully submitted by,

/s/ Les Pickett

Les Pickett (Lead Counsel)  
Federal I.D. No. 14306  
State Bar No. 15980520

OF COUNSEL:  
GALLOWAY, JOHNSON, TOMPKINS  
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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Removal has been served on the following via electronic service on this 28th day of September, 2017:

William T. Jones, Jr.  
Robert D. Green  
Daniel P. Baron  
Roy J. Elizondo, III  
GREEN & BARTON  
1201 Shepherd Drive  
Houston, Texas 77007

/s/ William D. Abbott

Les Pickett